

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JENIECE ILKOWITZ and ADAM ILKOWITZ,

Plaintiffs,

-against-

MICHAEL DURAND, MARLENE ZARFES
a/k/a MARLENE DURAND, ALAN C. PILLA,
HOULIHAN LAWRENCE, INC. JANE H.
CARMODY, THE JUDICIAL TITLE
INSURANCE AGENCY LLC, and ENCO
HOME INSPECTIONS LLC,

Defendants.

Case No. 17 Civ. 773 (PGG)

ECF Case

**DECLARATION OF
SCOTT J. PASHMAN**

SCOTT J. PASHMAN hereby declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am associated with Adam Leitman Bailey, P.C., attorneys for Defendant, The Judicial Title Insurance Agency LLC (“Judicial Title”), in the above captioned action.

2. I make this declaration on the basis of my personal knowledge.

3. I respectfully submit this declaration in support of Judicial Title’s motion for an Order, pursuant to Fed. R. Civ. P. 11, imposing sanctions upon Plaintiffs Jeniece Ilkowitz and Adam Ilkowitz and/or their attorney Jean-Claude Mazzola, Esq., of Messner Reeves LLP, in the amount of Judicial Title’s attorneys’ fees and costs incurred following the filing of Plaintiffs’ Complaint in this action on February 1, 2017, including fees and costs for the motion for sanctions.

4. Specifically, I submit this declaration in order to place before the Court certain facts and documents that will be referenced in the accompanying memorandum of law.

5. Annexed hereto as Exhibit 1 is a copy of Plaintiffs' Complaint filed on February 1, 2017, Doc. 1.

6. Annexed hereto as Exhibit 2 is a copy of a letter from Adam Leitman Bailey, Esq. to Plaintiffs' counsel Jean-Claude Mazzola, Esq., dated March 13, 2017.

7. On March 16, 2017, I participated in a telephone conference call with Adam Leitman Bailey, Esq., founding and managing partner of Adam Leitman Bailey, P.C.; Danny Ramrattan, an associate at Adam Leitman Bailey, P.C.; and lead counsel for Plaintiffs Jean-Claude Mazzola, Esq.

8. On the call, the attorneys discussed the March 13 letter and Adam Leitman Bailey reiterated Judicial Title's demand that Plaintiffs withdraw this action as against Judicial Title.

9. On the call, Plaintiffs' Counsel Mr. Mazzola refused to withdraw the action as against Judicial Title.

10. On the call, Plaintiffs' Counsel Mr. Mazzola also stated that he is an expert in title insurance and that he has represented Lloyd's of London and other major insurers throughout his career.

11. Annexed hereto as Exhibit 3 is a copy of a letter from Adam Leitman Bailey, Esq. to Plaintiffs' counsel Jean-Claude Mazzola, Esq., dated March 16, 2017.

12. Annexed hereto as Exhibit 4 is a copy of a letter from Adam Leitman Bailey, Esq. to the Hon. Paul G. Gardephe dated March 31, 2017, Doc. 52.

13. Annexed hereto as Exhibit 5 is a copy of a letter from Plaintiffs' Counsel Jean-Claude Mazzola to the Hon. Paul G. Gardephe dated April 4, 2017, Doc. 53.

14. Annexed hereto as Exhibit 6 are copies of Judicial Title's Notice of Motion to Dismiss or for Summary Judgment dated June 1, 2017, together with Rule 56.1 Statement, Appendix of Record Authority, Declaration of Vincent Morano dated June 1, 2017, Declaration of Scott J. Pashman dated June 1, 2017, and Exhibits 1 through 9 thereto. These documents have been filed as Doc. Nos. 75, 76, 76-1, 77, 77-1 through 77-6, 78, and 78-1 through 78-3.

15. Annexed hereto as Exhibit 7 is a copy of Judicial Title's Memorandum of Law In Support of Its Motion to Dismiss or for Summary Judgment dated June 1, 2017, and filed as Doc. 79.

16. Annexed hereto as Exhibit 8 are copies of Plaintiffs' Response To Judicial Title's Rule 56.1 Statement, Plaintiffs' Rule 56.1 Statement of Additional Material Facts In Response To Judicial Title's Motion For Summary Judgment, Appendix of Record Authority, Affidavit of Adam Ilkowitz sworn to July 12, 2017, and Plaintiffs' Exhibits A through H. These documents have been filed as Doc. Nos. 87, 87-1 through 87-8, 98, 99, and 99-1.

17. Annexed hereto as Exhibit 9 is a copy of Plaintiffs' Memorandum of Law In Opposition to Defendant Judicial Title's Motion to Dismiss or for Summary Judgment served on July 13, 2017, and filed as Doc. 90.

18. Annexed hereto as Exhibit 10 are copies of Judicial Title's Reply Rule 56.1 Statement, Appendix of Record Authority, Reply Declaration of Vincent Morano dated July 21, 2017, Reply Declaration of Scott J. Pashman dated July 25, 2017, and

Reply Exhibits 1 and 2. These documents have been filed as Doc. Nos. 95, 95-1, 96, 96-1, 97, and 97-1.

19. Annexed hereto as Exhibit 11 is a copy of the Reply Memorandum of Law of Defendant, The Judicial Title Insurance Agency LLC, In Further Support of Its Motion to Dismiss or for Summary Judgment dated July 25, 2017, and filed as Doc. 94.

20. On June 1, 2017, my office received service of Defendant ENCO Home Inspections LLC's ("ENCO") Notice of Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), 12(d), and 56, together with supporting papers. Annexed hereto as Exhibit 12 is a copy of ENCO's Notice of Motion dated June 1, 2017.

21. Annexed hereto as Exhibit 13 is a copy of a "So Ordered" Stipulation of Discontinuance With Prejudice between Plaintiffs and ENCO dated June 21, 2017, and entered as Doc. No. 69 on June 27, 2017.

I declare under penalty of perjury that the foregoing is true and correct. Executed in New York, New York, on September 13, 2017.


SCOTT J. PASHMAN

Adam Leitman Bailey, P.C.
Attorneys for Defendant
The Judicial Title Insurance Agency,
LLC
One Battery Plaza, 18th Floor
New York, New York 10004
(212) 825-0365
E-mail: spashman@alblawfirm.com